UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,990	01/23/2001	Diane R. Hammerstad	10005378-1	4199

7590   10/31/2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER
DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/768,990	HAMMERSTAD, DIANE R.
	Examiner	Art Unit
	Arthur Duran	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 September 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-6, 9-13</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-6 and 9-13</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

EA

DETAILED ACTION

1.   Claims 1-6 and 9-13 have been examined.

Response to Amendment

2.   The Amendment filed on 9/26/05 is sufficient to overcome the prior rejection. A new

reference has been added to the 35 USC 103 rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-6 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Alberts (5,937,392) in view of Tso (6,047,327) in view of Batachia (2002/0082912).

Claims 1-6 and 9-13:

Alberts discloses that an ad can be targeted to profiled users and that ads can be targeted

for particular times:

"(5) Alternatively, an advertiser may want a concentration or intensification of ads at

particular times, perhaps in response to a profile of users, e.g., different times for children

versus adults, or for people accessing the site from home versus work" (col 1, lines 43-50);

(12)   The present invention provides an integrated system that allows ads to be served in

a highly flexible and accurate manner a desired number of times throughout the day and evenly

distributed throughout the day, or intensified at times if desired. Different ads can be served based on different triggering events, such as the location of the user, the type of information being accessed by the user, or the categories accessed" (col 2, lines 30-40).

Notice that Alberts designates that times vary depending upon who the user is receiving the ad. For example, when an ad is slated for children then that ad could be targeted for time slots before 10pm. Then, when a user utilizes the system, the system would check if the user is a child and also what time it is. The ad slated for children would only be shown to children before 10pm.

Alberts further discloses targeting users based location, particular users, and/or time of day:

"(10) The system can predictively model the number of hits to control the distribution of serves, either to ensure even distribution, or to concentrate ads during particular times. The system also preferably has triggering information that allows ads to be targeted. Ads can be targeted to users seeking certain types of information, e.g., on a yellow pages system or on a search engine, access to "photography" could cause the serving of an ad for a manufacturer of film; to users from particular geographic locations; to particular users; or to users at different times of the day" (col 2, lines 15-25).

Alberts further discloses scheduling ads, scheduling ads based on user activities, adapting for time zones, adapting for regions, adapting for time regions:

"(27) While the counters are used to provide an appropriate balance in the numbers of serves for each ad relative to the others, other methods can be used to provide appropriate distribution throughout the day. FIG. 5 is a graph representing how usage might vary

throughout one day from midnight to midnight (the graph here is merely illustrative and is not meant as a precise measure). Based on recurring patterns, such as when most people work, the time zones, and the day of the week, the number of hits to a particular service may be predicted based on prior experience. The hours of the day can be broken up into time regions that may be less frequent during certain non-peak times and more frequent during peak times, and the frequency with which hits are calculated can be varied from numbers of hits per day to number of hits per time periods, with the time periods being reloaded from the database to the ad server by the controller on a more frequent basis throughout the day. This approach, in effect, alters the granularity with which the hits are monitored. With this approach, the time periods can vary in duration from short duration during peak times to longer duration during non-peak times" (col 6, lines 25-56).

Alberts does not explicitly disclose storing a subscriber advertising profile at the server.

However, Tso discloses advertisers and marketers targeting individual users based on profile, time, location, etc:

"(8) Advertisers and marketers who currently advertise on electronic services also have limited access to users and often can not focus their advertisements due to a lack of information for each user, including positional and demographic information.

(9) Thus, it would be desirable to have an electronic information distribution system which would bypass the limitations stated above" (col 1, lines 33-41).

Tso discloses individual subscriber profiles, storing profiles of subscribers at the server, checking the current time of the user to the time significance of the advertisement, time and

location based advertising, and time and location based advertising that takes the user profile

into account, and scheduling advertising (Fig. 3, server a17; Fig. 5; and below):

"(62) In addition to the traffic report example as described above, another example

would involve the use of the user's profile in addition to the time of day and the location of the

user for businesses which wish to advertise their services or products depending on additional

criteria. For example, eating establishments may wish to send advertisements to the users

located near each establishment's respective vicinity close to mealtimes. These advertisements

may contain menus or daily specials and, in addition to being targeted to specific users based on

their location and the time of day, can also be targeted based on the user's food preferences in

subscriber database 53. Thus, for example, if a user is a vegetarian, schedule/resource

controller 61 would only forward the InfoBites from vegetarian eating establishments or only

forward the InfoBites containing the vegetarian specials from the eating establishments" (col

15, lines 50-67).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to add Tso's individual subscriber profiles which can be stored at the

server to Albert's user profiles and utilization of servers. One would have been motivated to do

this in order to better target content to users and maintain accessibility of user information for

targeting.

Additionally, Tso discloses sending information to a user based on factors relating to user

location, time of day, user profile and also that the user can adjust or change their profile through

user feedback:

"(11)...What information is sent to the user is dependent on various factors, including: the location of the user; the time of day; and the information contained in a user profile. The user profile indicates the areas of interest of the user and can be dynamically adjusted based on user feedback (col 1, lines 47-53).

(22)   InfoFeed interface 57 enables content providers to update data and resources on server A 17 for specific subscriber locations and times. Thus, content providers may feed information only to those InfoCast servers matching a specific criterion (col 6, line 64-col 7, line 1).

(36)   Schedule/resource controller 61 is responsible for filtering the InfoBites that are sent to a user based upon the user's profile as contained in the user's record and subscriber database 53--i.e., a subscriber profile filter, the user's current location--i.e., a locational filter, and the time of day--i.e., a temporal filter. Alternatively, the filtering may be performed on a client, such as client A 23 (col 10, lines 40-48).

(50)   FIG. 5 is a flow diagram of the preferred operation of the invention. The description of FIG. 5 will be integrated with a detailed example, wherein the filter used by schedule/resource controller 61 will be based on the time of day, the location of the user, and user profile criteria. Thus, the filter used by schedule/resource controller 61 is composed of three filters, a temporal filter, a positional filter, and a subscriber profile filter (col 13, lines 25-35).

(54)   In Block 107, assuming that there is at least one InfoBite that matches the time of day and location of user criteria, schedule/resource controller 61 will send that InfoBite to client A 23 through the use of messaging interface 67" (col 14, lines 15-20).

Also, Batachia (20020082912) discloses that the user can adjust a user profile including

advertising preference and time of delivery preference:

"[0037] The customers may specify their preferences regarding the type or content of the

messages they are interested in. In the case of messages of type offer package, the customers

may also indicate the range of acceptability of the prices of the contained offers and times of

day when they prefer to receive such messages. In customer preferences, the customers may

also specify the kind of messages they prefer to receive directly on their wireless devices, the

kind of messages that will be accessible only on the platform via HTTP or WAP, and the kinds

of messages they prefer to have forwarded to other devices like e-mail systems, faxes, pagers,

etc.,. These customer preferences may be used to filter the messages before they reach different

Customers' personal devices or personal accounts, to better satisfy the customers' needs and to

avoid overwhelming customers with unnecessary messages".

Batachia further discloses e-commerce utilizing the Internet, a variety of Internet business

models, providing information or content to a user in a push and/or pull business model, and the

utilizing of advertising (Paragraph 0001, 0002, 0003 and the below):

"[0002] E-commerce uses various business models such as providing a service in return

for an advertising space on the customer's display or an online catalog that also allows for

online entry of orders".

Batachia further discloses targeting a customer or customers, that customer preferences

can be used to filter offers, that customer preferences can include time delivery period for

information/content/offers, and that users can be targeted based on a combination of user

indicated preferences as well as vendor predictions or inferences concerning behavior of

observed interactions or activity of customers:

"[0022] The offer package engine (which may also be a push/pull platform) 506

generates a package containing one or more offers and/or options that target a particular

customer or customers based on policies of the business rules and inference engine 508 and data

in the database 510. A factor that may be considered when offers are made is customer

preferences. Customer preferences may be stored in the database 510 and used to <u>filter</u> offers.

The customer may specify in his or her preferences for example, the intervals of acceptability

for different attributes characterizing an offer (price, quantity, etc.), the period(s) of time when

he or she agrees to receive offers, etc. In another instance, the vendor takes creates and sends

offers using predicted behavior of the customers obtained by inference or previous

interactions".

Batachia further discloses that it is desirable to filter messages in order to better satisfy

customers:

"[0037]. . .These customer preferences may be used to <u>filter</u> the messages before they

reach different Customers' personal devices or personal accounts, to better satisfy the customers'

needs and to avoid overwhelming customers with unnecessary messages".

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to add Tso's users indicated preferences, targeting based on time and

user preferences, and maintaining of a subscriber profile on the server and Batachia's user

indicated preferences including time of delivery of content to Alberts utilization of profiles and

targeting a user based on a variety of considerations including time or time periods. One would have been motivated to do this in order to better target a user and better satisfy the customer(s).

Also, in regards to claims 2 and 10, Tso further disclsoses utilizing mailing address information (col 16, lines 5-10;). And, since Alberts discloses targeting a user based on user location and also geographic region (col 7, lines 10-20; col 2, lines 15-25; col 2, lines 30-40) and Alberts discloses adjusting for time regions and time zones (col 6, lines 25-56), and Tso discloses that mailing address information can be utilized (col 16, lines 5-10), it would be obvious that Alberts can adjust the time zone to the location of the user which can include a postal code of the user. One would be motivated to do this because postal code is an obvious and convenient way to indicate a geographic region.

Also, in regards to claim 13, Batachia further discloses multiple network interfaces or devices to which the user can have content delivered (Paragraph 0037).

Response to Arguments

3.   Applicant's arguments with respect to claims 1-6 and 9-13 have been considered but are moot in view of the new ground(s) of rejection.

On page 5 of the Applicant's Remarks dated 9/26/2005, Applicant states, "Applicant has amended claims 1 and 9 to further clarify the present invention. . .neither Alberts nor Tso. . .teach or suggest the invention as now claimed." Please see the rejection above to see how the combination of the prior art renders obvious the invention as now claimed. Please particularly note the section above starting with, "Additionally, Tso discloses sending information to a user based on factors relating to. . ." and on thru to the end of the rejection.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims

that are being rejected with the prior art. Also, although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van*

Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are

given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664

(Fed. Cir. 2000).

Examiner notes that while specific references were made to the prior art, it is actually

also the prior art in its entirety and the combination of the prior art in its entirety that is being

referred to. Also, one cannot show nonobviousness by attacking references individually where

the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

The following prior art made of record and not relied upon is considered pertinent to

applicant's disclosure:

a) Ben-Shaul (20020010798) discloses a user being able to specify preferred

advertisements and preferred deliver times for advertisements:

"[0027] It is yet another object of some aspects of the present invention to provide a

decentralized and differentiated content and application delivery system that delivers the

content to the end customers, and to allow end customers to customize the delivery process

based on local preferences, content priority, delivery time and the characteristics of the

resources associated with the delivery";

b) Griggs (20020029384) discloses a user being able to specify preferred advertisements and preferred deliver times for advertisements:

"[0009] A set of user preferences preferably can be modified by an authorized user. User preferences can include, but are not limited to, identified content providers, user likes and dislikes, and preferred times to receive program transmissions. In further embodiments of the instant invention, user preferences are automatically updated based on program transmissions selected through a corresponding account".

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
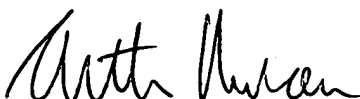
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arthur Duran
Patent Examiner
10/26/2005